

ATTORNEY DOCKET NO. 821-65**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): Uwe BOTTCHER

Examiner: Nguyen, Phong H.

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Serial No: 10/519,528

Group/Art Unit: 3724

JUL 18 2008

Filing Date: December 27, 2004

Docket: 821-65

For: AN ARRANGEMENT AND A
METHOD FOR CLAMPING
THIN RODS

Dated: July 18, 2008

MAIL STOP AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**REQUEST TO WITHDRAW FINALITY OF OFFICE ACTION**

Sir:

It is respectfully requested finality of the Office Action mailed May 29, 2008 by the Patent and Trademark Office in the above-identified application be withdrawn, with the Office Action re-issued with a new response deadline, for the following reasons.

The Remarks begin on page 2.

CERTIFICATE OF FACSIMILE

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office (1-571-273-8300) on the date shown below.

Dated: July 18, 2008
George M. Kaplan

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REMARKS:

In the first Office Action on the merits mailed October 26, 2007 by the Patent and Trademark Office in the above-identified application, Claims 3-6, 10-12 and 15-28 were indicated allowable in box 5) of Office Action Summary PTOL-326, while there was no rejection on the merits of these claims. Accordingly, Claims 3, 6, 10 and 15 were amended into independent form in the previous amendment filed February 28, 2008, with all other dependent claims depending either directly or indirectly from one of these independent claims.

In the present Office Action however, these claims are rejected over prior art for the first time in paragraphs 8-12 of the Office Action. Additionally, a rejection of these Claims 3-20 under 35 U.S.C. §112, second paragraph, has been raised for the first time in paragraph 6 of the present Office Action while a rejection of Claims 11 and 12 under 35 U.S.C. §112, first paragraph, has been raised for the first time in paragraph 4 of the present Office Action, along with an objection to the specification being raised for the first time in paragraph 2 of the present Office Action. These rejections under 35 U.S.C. §112, first and second paragraphs, in addition to the objection to the specification, were not necessitated by any previous amendment because the claims indicated allowable were simply amended into independent form.

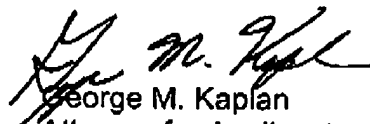
In paragraph 13 of the present Office Action, the Examiner states that due to a "typographical error," Claims 3-6, 10-12 and 15-28 were "erroneously" indicated allowable in the previous Office Action; the Examiner's response has been to rejoin Claims 3-6, 10-12 and 15-20 with Claims 7-9, 13 and 14 and reject all these claims on the merits. Firstly, it is respectfully pointed out Applicant relied upon the Examiner's

"erroneous" statement in making the Amendment filed February 28, 2008 and should not be procedurally penalized for doing so. Secondly, if the Examiner wanted to immediately correct this mistake, then he should have issued a Communication in accordance with M.P.E.P. §821.03 requiring Applicant to reinstate the claims directed to the elected embodiment.

It is respectfully emphasized Applicant is not challenging the right of the Examiner to reject the claims over prior art or otherwise. Rather, Applicant merely points out the rejections presently-being raised for the first time must appear in a non-final Office Action to allow Applicant full opportunity to properly address the same.

Accordingly, for these reasons, it is respectfully requested the present Office Action be reissued as a non-final Office Action with the response deadline being reset.

Respectfully submitted,


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